

## Paying for Identity: the Formation of Differentiated Collectives through Taxes

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**MARTIN NONHOFF AND FRIEDER VOGELMANN**

## **PAYING FOR IDENTITY**

### **THE FORMATION OF DIFFERENTIATED COLLECTIVES THROUGH TAXES**

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COLLECTIVES THROUGH TAXES

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## **Abstract**

If paying taxes is a form of overt support, as David Easton noticed, we cannot understand it without looking at the normalization of paying taxes on which it relies: the making and molding of citizens into tax payers who (mostly) pay their taxes voluntarily. Yet how are we to analyze this complex process? In this paper, we sketch a theoretical framework derived from Michel Foucault's analytics of power. We concentrate on the power of taxes and how it affects the identity-formation or subjectivation of citizens. Looking specifically at income taxation, we provide an overview of the different forms of power and of the different subject positions thereby created, using the early history of establishing a direct income tax in Germany and the USA to illustrate our conceptual framework.

## 1. Introduction

Following David Easton's classical lead, we may assume that a political system's persistence rests on its support by its members. Easton goes to great lengths to develop a differentiated understanding of what support for a political system means (Easton 1965, 1975). In this paper, we cannot do justice to this conceptual work but we want to start from one of his insights: the differentiation between overt and covert forms of political support (Easton 1965: 159-161). What political science mostly looks at when it scrutinizes support is attitudes (as a proxy for trust or legitimacy), and thus what Easton called covert support. Easton himself in his later writings excluded the notion of compliant behavior – and thus overt support – from his concept of support, arguing that compliance could stem from pure fear as much as from supportive attitudes (Easton 1975: 453-455). This is of course true. Still, we believe that much can be learned from looking at how citizens comply and especially from how they are made to comply. If we exclude compliance from our view on how political systems work, we may be losing sight of one of the most important political phenomena, one that is often quite crucial for the persistence of political systems: power. David Easton's theory is centered on the question how one can understand the equilibrium of a system. It often sounds as though there were a natural inclination of systems towards stability or, if not stability, at least persistence. This "natural stability view", however, overlooks that power plays a very important role for stabilization. We therefore want to return to the question of overt support (or a specific aspect of it) and are particularly interested in how overt support or compliance is connected to power. More specifically, we are not only interested in how power can force people to comply (this is what Easton alludes to when he talks of fear), but how power works through human subjects, through what is often called the construction of their identity, in order to make them comply willingly.

Political identities, particularly collective political identities, are mostly thought to be an important foundation for the functioning and the stability of political systems. To put it in an oversimplified way, we find two takes on the matter: On the one hand, identities are often conceived in a non- or pre-political way, rooted in the culture of the respective society which is thought to provide a political system with common history and feelings of solidarity. Some scholars see this kind of pre-political identity as essential for the long-term stability of modern political systems, particularly if they aim at or already have implemented welfare policies. Because the European Union is thought to lack a collective identity in this sense, its prospects are often deemed doubtful (Offe 1998). On the other hand, others have from the beginning pointed to a less sophisticated precondition for the stability of political systems: As, again, David Easton stated: "the members of the system must show some minimal readiness or ability to continue working together to solve their political problems. Otherwise there could be no expectation of compliance with any authoritative allocation of values" (Easton 1965: 172). If viewed in this way, identity becomes a question of political practices, less of pre-political culture. Still, in the course of political practices something like "normal" behavior can develop over time, and this again will stabilize expectations as to how members of a system will or should act politically. It is these normal political practices that we would like to understand as political culture. It is important that political culture in this sense does neither exist before politics (it is not pre-political) nor can it be reduced to attitudes and opinions (as in Almond und Verba 1963, Welzel und Inglehart 2011).

What we are interested in in this paper is a specific aspect of overt support (or its withholding) and its connection to the formation of specific identities. This aspect is already mentioned by Easton's *Systems Analysis* (Easton 1965: 159): the payment of taxes. Taxes are a specific medium of political systems to secure support and to form political identities. This is particularly true in regard to income taxes that intervene very visibly into many people's lives and make them change their behavior, their family status, their jobs, their investments etc. At the same time, tax payers as a collective also constitute a very specific identity, be it as liberal maximizers of personal gain who may legitimately expect to get output from a political system, be it as proud republicans who share the public burden, or be it as a national tax community that helps out another national tax community. How this identity develops is often thought to be related to "tax culture" (Nerré 2008), which can be considered to be a part of political culture in the sense of ongoing practices that regulate our public life.

Our research project aims at scrutinizing the relation between taxes, identity/subject formation and power in six countries: UK, Germany, France, USA, India and Argentina from the time of their introduction of income taxes to the present. At this time, however, we are only at the beginning of the project. Therefore, the emphasis of this paper is theoretical with a few cursory glances at empirical data from Germany and the US. We will follow these steps: First, we will line out the general thrust of our endeavor in more detail (section II). Then, we argue for the theoretical shift from identity to subjectivation and explore its wider implication (section 0). As a conclusion, we will sketch out some hypotheses on the connection of tax subjectivity, tax culture and system persistence (section IV).

## 2. Meeting Schumpeter's Challenge – Sketch of a Research Program

"Human beings have become what they are through the fiscal pressure of the state." Joseph Schumpeter's (1918: 6, our translation) early insight provides a twofold challenge: First, it announces an unsettling link between the state and its citizens, a relation that is said to constitute the citizens' identities as much as they constitute the political identity of the state – if not more so. Second, it proposes the most important mechanism that accomplishes the making and molding of the citizens' identity: "financial pressure", which in Schumpeter's opinion is the driving need behind both the process of state-building and the making of the citizens' identities. Taxation is the single most important instrument through which the state satisfies its fiscal needs and that made it into what it is today (cf. Schumpeter 1918: 19). If the state and its financial needs formed the human beings that live in the shadow of its power, and if the state today is rightly called a "tax state" (as Schumpeter does already in the title of his book), then taxation also is the primary mechanism through which the citizens' identities are formed. Yet both parts of his insight provide a challenge, because Schumpeter himself hardly lived up to the bold claim he made: More interested in the history of the tax-state and whether or not its demise is inevitable, he never even tried to argue for his insight.

Our research project takes up what might be called Schumpeter's challenge. While taxation is mostly considered in regard to its effectiveness in financing the state, in regard to its

influence on the productiveness of the economy or in regard to the questions of (social) justice it raises, we are interested in how tax regimes affect or even create the identities of the human beings within their grip. Yet since our project is still in a very early state, we can do no more than show how we propose to meet Schumpeter's challenge and why we think that identity-formation through taxation is linked with the stability of the state.

What would amount to a demonstration of Schumpeter's grandiose claim that we were made into who we are through the financial pressure of the state? Taxation is, as we already indicated, the primary instrument through which the state attempts to satisfy its financial needs and the successful use of which forced the state to develop in a particular way. The key to take up Schumpeter's challenge and turn his assertion into a justified claim thus is to analyze taxation as the primary mechanism through which the state shapes the identities of its citizens.

Today, taxation is nearly ubiquitous. At least in the OECD world, it permeates almost every fiber of human existence: what we earn, how we spend and what we consume, how we organize our families, what kind of transport we use – all that and much more is influenced by the tax regime we live in.<sup>1</sup> Taxes also express and consolidate our normative perceptions of who belongs to “us”, of what we owe each other and of what we deem just (Martin, Mehrotra und Prasad 2009: 1). They formalize and stabilize these perceptions, and by doing so they set standards, raise expectations, and thus affect what we do. In short, taxation produces social and political meaning and affects social behavior in an encompassing manner.

This is why we speak of the *power of taxes*: because they make us do something or even make us do something in a particular way. And through their constant exercise of this power, they force us to become a certain someone. From this perspective, it is not so much the identities of the state's citizens we are interested in, but the power-laden process of identity-formation. Since the analytical use of “identity” tends to emphasize the result, thereby reifying the process of identity-formation (cf. Brubaker und Cooper 2000: 5) and hiding the power-relations involved, we use the theoretical notion of “subjectivation” drawn from the works of Michel Foucault. Our hypothesis is that the power of taxes operates through the subject, creating (among others) the differentiated collective of “tax payers”.

Yet in order to meet Schumpeter's challenges by demonstrating the subjectivation through the power of taxes, one has to become more specific and therefore limit the scope of “taxation” in three ways: in regard to tax type, space and time. In regard to tax type we opt for analyzing the regime of (personal) income taxes for the following three reasons: First and foremost, income tax makes sense as an object of study because here subjects are most obviously produced. Because it is a direct tax (and thus easily perceived), and because differentiated tax rates and a myriad of possible deductions directly link individual living-conditions and decisions to taxes paid, we may reasonably assume that subjectivation effects of income taxes will be much more individualized than the subjectivation effects of other taxes. Second, the development of modern tax systems runs parallel to income

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<sup>1</sup> We loosely base our notion of “tax regime” on Campbell's (Campbell 2005: 392) definition: “By tax regime I mean a combination of taxes and tax rates that policy makers adjust in order to achieve their policy goals.”



taxation. While tariffs, excises or sales taxes were common before the 1890s, income taxes as a widely effective and persistent part of the tax system are a development of the 20th century<sup>2</sup> (and thus as prominent a feature of the modern state as welfare policies). Thus, scrutinizing the relation of income taxes to subjectivation will tell us something important about the subjectivation through the modern (tax) state. Third and finally, income taxes play a very important role quantitatively. In all OECD countries, they make up a great share of state revenues (two examples: US 2012: 46.2 %; Germany, estimated for 2012: 36.8 %<sup>3</sup>).

Regarding the limitation in space, we may assume that different social and political contexts and different histories influence the specific power relations established by tax regimes. This makes a comparative study necessary. Therefore, our study will compare six cases: the UK, the USA, Germany, France, India and Argentina. Yet as noted above, we limited ourselves in this paper to only a few empirical remarks about Germany and the USA. Both countries have made significant contributions to the development of modern tax systems and tax administration. What makes them even more interesting for us is that they both were hugely influential in conceiving modern income tax systems (cf. Daunton 2007).

Finally, with regard to time, we believe that a comparative historical study is best suited for answering our research questions. The historic dimension is necessary because it is well known that the specific formation of a tax system at a given point of time owes a lot to decisions made earlier on (Morgan und Prasad 2009). Even though it is always a particular political constellation that results in specific tax policies and administrative structures, once a fundamental decision is taken the essential setup of tax systems tends to be very stable. In other words, there are critical junctures and path dependencies. The power of taxes rests, among other things, on the stability through time as a necessary condition for the formation of stable subject positions. Therefore, a historical dimension of our study is imperative. The first important scientific and juridical debates about income tax took place roughly between 1890 and 1920. In the US, the modern federal income tax system starts to develop from 1913 onwards. In Germany, a federal income tax was introduced in 1920, even though Prussia and some other states had introduced income taxes in the late 19th century. In both countries, the federal income tax systems were reformed a number of times, but (exceptions notwithstanding) the structure of the systems remained largely stable from roughly the 1930s onwards (after the NS- and New Deal reforms). Regarding the USA and Germany, it is the relation of these formative years to the tax subjectivities of recent years (roughly 1980 to 2015) that we want to look at.

<sup>2</sup> With the exception of England: cf. Daunton (2001).

<sup>3</sup> Cf. Bundesministerium der Finanzen (2012: 14); all taxes on income make up for 40.1 %, but this includes 3.3 % corporate income tax. For the US, see Office of Management and Budget (2013: 39).

### 3. Subjectivation through Taxation

The shift in perspective that we pursue follows rather naturally, once one takes up Schumpeter's challenge to demonstrate how the financial state crafted the identities of its citizens through taxation. For it is essentially a question of making visible the power exercised through taxes and of understanding how such a power can form or even create identities. Yet as already indicated, "identity" is a problematic concept in this regard, because it reifies the process of shaping the citizens and tends to obscure the power relation at work in it.<sup>4</sup> Instead, we will use Foucault's concept of "subjectivation" to refer to the process through which subject are constituted by power relations, thus becoming subjects in the double sense of the word: subjected to power and thereby turned into active subjects who can themselves exercise power. Because power is the key to understand both the process of subjectivation and the perspective on taxation as a system of power relations making us into what we are, we will start with a short explanation of what we mean by power.

Following Foucault,<sup>5</sup> we understand power to be the name of the myriad of relations between subjects that influence their (actual and possible) actions: "In effect, what defines a relationship of power is that it is a mode of action that does not act directly and immediately on others. Instead, it acts upon their actions: an action upon an action, on possible or actual future or present actions" (Foucault 1998 [1982]: 540). This broad notion of power forces one to analyze precisely how power relations are established, maintained and overturned; it is thus less an explanatory than a *diagnostic* concept,<sup>6</sup> turning attention to the web of power relations that are at work within the tax regime.

It is tempting to think of power relations as essentially repressive: curtailing, blocking or censoring those who are subjected to power. But while power relations sometimes do all that (and more), they are also productive and assume very different forms: power "incites, it induces, it seduces, it makes easier or more difficult; it releases or contrives, makes more probable or less; in the extreme, it constrains or forbids absolutely" (Foucault 1998 [1982]: 341). Again, because power is merely an "abbreviation" (Foucault 1998 [1984]: 291) for the great variety of heterogeneous power relations, using Foucault's notion of power means taking a perspective interested in an analysis of the concrete mechanisms through which power relations are established or undermined. To understand taxation as a system of power and meaning has no explanatory value in itself but names a task.

A second temptation is to think of subjects as given nodes within the network of power relations. Yet the exercise of power – the "governing"<sup>7</sup> of others – shapes the field of (actual and possible) actions of those subjected, thereby constituting them as subjects with specific

<sup>4</sup> "Whatever its suggestiveness, whatever its indispensability in certain practical contexts, 'identity' is too ambiguous, too torn between 'hard' and 'soft' meanings, essentialist connotations and constructivist qualifiers, to serve well the demands of social analysis" (Brubaker und Cooper (2000: 2)).

<sup>5</sup> The *locus classicus* is Foucault (1978 [1976]: 81-102); cf. also Foucault (2003: 12-41); Foucault (1998 [1982]). How to interpret Foucault's writings on power is of course contested territory: cf. Nealon (2008).

<sup>6</sup> For a comprehensive interpretation of Foucault along these lines see Vogelmann (2012); Vogelmann (2014: chapter 2.1).

<sup>7</sup> Foucault (1998 [1982]: 341) uses "governing" synonymous with "exercising power".

abilities and constraints. The subject does not exist prior to the power relations it finds itself embedded in, but is, as Foucault trenchantly puts it, “one of power’s first effects” (Foucault 2003: 30). Power relations are productive in this sense, too: they constitute the subjects.

If this first picture of “subjectivation” seems to turn the subject into a mere puppet of the power, it does so only because a crucial part is still missing: If the subjects who exercise power and thereby govern others are themselves constituted by power relations, the analysis must include the reflexive dimension of power or the self-governing of subjects. Subjects do not only change the field of (possible) actions of others, they also re-constitute the field of their own possible actions. This happens with different degrees of self-consciousness: While moral practices are the primary example for intentional and thoroughly reflected self-governing,<sup>8</sup> other practices are less reflexively directed towards shaping the power relations that constitute the self. Yet this everyday self-governing is of interest precisely for its mundane character: being part of routinized behavior it may be less explicit but is all the more effective. Put differently: Subject positions are not just created by how power relations address and thus constitute those they subject, but are developed by those occupying these subject positions as well. Even though subjectivated as a tax payer, the individual is able to relate very differently to that interpellation, thereby developing a specific self-relation or *ethos*.<sup>9</sup> Hence, understanding subjectivation through taxation requires looking at both the power of taxes and the reflexive self-governing of its subjects.

The theoretical discussion of power and subjectivation gives us two guiding ideas for our study: First, understanding the power of individual income taxes requires us to ask how individual income taxation was established, how it works on the subjects and what resistance it met (and continues to meet). Hence, the early history of income taxation and concrete descriptions of the power relation that came with it and are still with us today are focal points in our study. Second, insofar as the power of taxes plays a vital role in the formation of subjects within modern tax states, we must analyze how these subjects reflexively exercise power themselves, that is, what part they play in their subjectivation as (income) tax payers. Therefore, we will focus on the interplay of being governed and governing oneself. We will expand on each of these ideas in turn.

(1) Individual income tax as a major source for state revenues is a rather recent phenomenon, constitutively belonging to the modern (tax and welfare) state of the 20<sup>th</sup> century. Building the capacity to collect income taxes requires extensive, far-reaching and intense interventions into the lives of the state’s subjects; yet strong bureaucratic institutions on their own are not enough: to be able to continuously exercise the power of taxes, paying taxes needed to become “normal”. This is why we speak of the “normalization of paying taxes” as one of the most interesting large-scale transformations in the system of power relations constituted by income taxes. It deeply changed the state and its institutions as well as its citizens, whose reactions to the “normalization” of paying taxes decisively co-shaped this process (cf. Jones 1997, Daunton 2001, Likhovski 2007).

<sup>8</sup> As Foucault shows in his later works: cf. Foucault (1990 [1984]); Foucault (1986 [1984]).

<sup>9</sup> On this notion of *ethos* see Foucault (1990 [1984]: 25–32). Of course, this does not mean that the subject is complete free: cf. Foucault (1998 [1984]: 889).

In Germany and in the US, the necessary transformations of both the state and its citizens took place during the late 19<sup>th</sup> and in the first half of the 20<sup>th</sup> century. Between 1891 and 1914, most of the German Federal States introduced income taxes that continually targeted ever larger parts of the population; the Weimar Republic finally established a general “Reichseinkommenssteuer [federal income tax]” (Metzger und Weingarten 1989: 122-149). In 1926, approximately 25 % of the population actually paid income tax.<sup>10</sup> In 2011, the percentage was roughly 46 %<sup>11</sup>, indicating an increase across time. The development of US federal income tax was comparable. Though early experiments with a federal income tax during the civil war years were remarkably successful,<sup>12</sup> a second attempt in 1894 was much less ambitious and ruled unconstitutional by the Supreme Court in 1895 (cf. Brownlee 2004: 47). The debates continued well into the 20<sup>th</sup> century, until the Sixteenth Amendment finally legalized a federal income tax in 1913. Still, in 1918 only about 10% of the population paid income tax – a figure that dropped during the Great Depression to 7% before the broadening of the tax base in 1946 turned 87% of the population into income tax payers (cf. Paris und Hilgert 1984: 4). As more and more citizens had to pay income tax, it quickly became one of the biggest positions in state revenues, accounting for about 1/3 of the total tax revenues.<sup>13</sup> Even though these numbers are only a first hint of the increasing importance of income taxes in the 20<sup>th</sup> century, they make it plausible to talk of a normalization process.<sup>14</sup>

Yet normalization does not simply come in numbers. For a system of power relations as vast as the one needed to annually calculate, collect and record an individual income tax to become “normal” requires a lot more. Crucial elements are legal generalizations, the creation of (vast) tax bureaucracies, the capacity to establish and maintain tax statistics and last but not least the ongoing production of knowledge and legitimation within public, administrative and scientific discourses. The power of this normalization process materializes in the modification of already existing subject positions (like the tax payer), the creation of new subject positions (like the tax counselor) as well as the creation of a whole new domain of “tax objects” (forms, receipts) and in the (re-)arrangement of the relations between them. Such an income tax regime is “normalizing” to the extent it makes broadly acceptable, normatively desirable or simply unquestionable that a significant share of private income (beyond certain thresholds) is seized by the state. Gustav Schmoller’s excited celebration offers a taste of how extraordinaire even the modest idea of a general tax liability was in 1877: “The breakthrough of the idea of tax liability is a tremendous, moral and intellectual step forward! What abstraction, to willingly give a voluntary share of all the citizens’ incomes

<sup>10</sup> According to the *Statistisches Reichsamt*, 15.440.681 persons paid income tax in 1926 Metzger und Weingarten (1989: 360). The census of 1926 calculated a total population of 63.630.000 (*Statistisches Jahrbuch* 1929).

<sup>11</sup> In 2011, 37.4 million Germans paid income tax. This corresponds to 45.8 % of the total population or to 58 % of the adult population (Bundesministerium der Finanzen (2012: 23).

<sup>12</sup> The first federal income tax was established in 1861, slightly raised in 1865 and remained in force until 1870. For a concise overview see Brownlee (2004: 33-37); an early but still important account is Seligman (1970 [1911]).

<sup>13</sup> For data from 1965–2011 see the OECD Tax Statistics on state revenue from [http://www.oecd-ilibrary.org/taxation/data/revenue-statistics/united-states\\_data-00258-en?isPartOf=/content/datacollection/ctpa-rev-data-en](http://www.oecd-ilibrary.org/taxation/data/revenue-statistics/united-states_data-00258-en?isPartOf=/content/datacollection/ctpa-rev-data-en) (accessed August, 19<sup>th</sup> 2013).

<sup>14</sup> Because of the early stage of our project, the data is still incomplete. While there are some historical tables on income tax rates and state revenue, we are still collecting data on the how many actually had to pay income tax.

to an impersonal being [...]! What moral confidence, what complex organization it takes” (Schmoller 1877: 112, our translation).

If we focus on the power exercised by the state that set this normalization process in motion, three modes of exercising power are worth distinguishing: juridical, disciplinary and regulatory power relations.<sup>15</sup> The state can, firstly, establish power relations through laws which function by drawing boundaries, thus marking certain actions illegal. Creating actions judged as tax evasion is the easiest example of how *judicial* power relations work. A more concrete, though ambiguous example that also shows the subjectivating potential of judicial power is given by Mark Jantzen’s account of Prussian taxation policies (1773–1927) toward the religious minority of Mennonites who (for religious reasons) refused to do military service. In a first phase (1773–1801), the Prussian state simply allowed the Mennonites to pay an exemption fee (cf. Jantzen 2007: 102). Yet from 1801 onwards, “the Mennonite tax was [...] redesigned to mold Mennonites into better citizens” (Jantzen 2007: 103) by subdividing them according to whether they held property or not. Property-owning became conditional on serving in Prussia’s military, and marrying the daughter of a property-owner could suddenly force young men without any property in the Prussian army. In the third phase from 1867 to 1927, the exemption tax was dropped and Mennonites were granted full citizenship once they served. Jantzen (2007: 112) concludes:

The strong desire of many Mennonites to escape extra taxes and restrictions on civil rights had brought them over time to alter the one tenet of their faith that was incompatible with the modern state: their resistance to military service. Thus the Prussian tax code played a small but significant part in helping to create Germans out of Mennonites.

The example shows how laws can aim to alter subjectivities and not just conduct, though it also demonstrates how laws can be enlisted in a disciplinary or regulatory exercise of power, because making property-owning conditional on military service works differently than just drawing a line between what is forbidden and what is not.

Secondly, the state uses *disciplinary* power relations that do not mark illegal actions, allowing all other actions, but work prescriptive: Disciplinary power relations tell those subjected to them what to do and work through more or less coerced training of subjects. A small, but significant example would be the practice of keeping and storing receipts and other records of personal spending. Analyzing Australia’s income tax laws and their history, Robert B. Williams (1992) shows how tax accounting disciplines tax payers not just by forcing them to keep records but by training them how to calculate their income, submitting them to examinations etc. He concludes:

Taxpayers are subject to training by being required to present their financial affairs in the form laid down by the legislation. [...] The requirements of accounting for tax purposes are becoming more refined and restrictive. It is suggested that the accounting requirements, imposed by the tax rules, [...] are part of the disciplinary technology which aims to produce willing and compliant taxpayers (Williams 1992: 19).

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<sup>15</sup> For the differentiation between “juridico-legal” mechanisms of power, “disciplinary” mechanisms and “mechanisms of security” see Foucault (2007: 67ff.).

Finally, the tax state uses *regulatory* power relations that neither prohibit nor prescribe actions but establish systems of incentives to make certain actions more likely than others<sup>16</sup> or create feedback-loops to reinforce certain behavior. A paradigm case is tax splitting for married couples, which turns marriage into a financially attractive option. The attempt to use tax incentives to induce tax payers to behave in a certain way can be called “governing through taxes”.<sup>17</sup> The limitless fantasy of technocratic governance is spectacularly visible in the idea to regulate population growth via a “birth tax”. In 1971, for example, the American economist John M. Culbertson proposed two alternative birth-tax regimes: Whereas the first one “essentially involves a flat excise tax per birth”, the other approach

would apply concepts familiar from the graduated income tax, with its exemptions and its marginal tax rate higher than the average rate. Thus each couple might be allowed one or two births without tax, the tax on additional births being high enough or rising steeply enough, again, to limit total births to the socially desired number (cited after Mohr 1976: 212).<sup>18</sup>

Of course, this was the bad old days; today, the state uses income tax rebates to influence couples in the opposite direction.<sup>19</sup> In light of such programs, Schumpeter’s claim seems less like a challenge than a modest description.

(2) The different modes of power exercised by the state address different subjects on many different levels and in various manners. In order to take a closer look at the different ways of subjectivation within the income tax regime, we find it helpful to focus on four subject positions: the tax state, the tax population, the tax translators and tax subjects.<sup>20</sup> Since we have already said something about the state’s capacity to govern through taxes, we will shortly describe what we mean by the other three subject positions: the tax population as a whole, the tax subjects (both individuals and groups) within the reach of the state, and what we call “tax translators”.

The *tax population* is the totality of the tax state’s addressees. It is neither identical to the citizens, for non-citizens can be taxed as well, nor is it identical to the people, a concept with juridical implications the notion of population does not have. The tax population is a creature of tax statistics and related discourses. As such, it has a normalizing effect on the question of belonging to a collective with a fiscal identity. This fiscal identification comes with a range of options: positive identification like pride in a reliable tax mentality (Tretter 1974) or in aggregated fiscal power (the contemporary German tax collective within Europe), neutral or rationalistic self-descriptions as bearers of entitlements (the right to address a number of demands to the state as well as to the fellow tax payers in regard to security, infrastructure, social benefits etc.), or negative identification, for example as victims of a larcenous coercive system (tax revolts, Boston Tea Party etc.). Tax populations assume the precarious status of

<sup>16</sup> We could interpret the earlier example of the Mennonites partly as an attempt to establish incentives through legislation. Thus, the example is ambiguous – but which real-world example is not?

<sup>17</sup> Adopted from Nikolas Rose’ Rose (1996) phrase of “governing through community”.

<sup>18</sup> Note that China’s one-child policy does *not* work through the tax system.

<sup>19</sup> On the paradoxes of the state’s attempt to economically regulate its population’s birth rate and the perversions in the (scientific and public) debates around it, see Streeck (2011).

<sup>20</sup> As we are in the very beginning of the project, this heuristic is but a first attempt to systematize what kind of subjectivation processes we expect to find.

a subject through various ways, including but not limited to its “speakers” – e.g. the *Bund der Steuerzahler* in Germany.<sup>21</sup> Their status is precarious because they exist primarily as an object of reference within discourse and statistics. It can thus largely be considered to be an *effect* of power relations: an important effect as it serves as a point of reference for many of the other relations, but probably not an active player in the process of subjectivation.

With the term *tax translators*, we want to capture those subjects that relay and translate the interpellation of the state to pay taxes – examples are tax counselors and tax collectors.<sup>22</sup> They are important because most of the tax state’s messages are issued in the form of laws which are rarely read and hard to understand for almost all tax payers. Thus, the tax state relies on tax translators to give its laws a voice and mediate between the state and its subjects.<sup>23</sup>

Yet translators do more than that. On the one hand, they develop a specific kind of expert knowledge concerning the tax laws and administration as well as of the expectations and the power of the state. On the other hand, they construct the ideal rational tax payer and aim at anticipating his or her (best) reactions to taxation imperatives. The imagined rationality of the tax payer revolves around two centers: to pay as little taxes as possible and yet to abide by the law. Through the construction of the ideal rational tax payer and through the regular practice of giving advice, translators themselves exert disciplinary and regulatory power vis-à-vis the tax subjects. But at the same time, through the production of knowledge about responses of ideal and real tax payers, they can direct regulatory power towards the state. Probably the most interesting subject position among the tax translators is the *tax counselor*. Clearly a product of the normalization process, the genealogy of this subject position is of special interest to us.<sup>24</sup>

However, the center of attention is occupied by the *tax subjects*: those subjectivated by the income tax regime, the addressees of interpellations issued both from the tax state and from the tax translators. Tax subjects include individuals (citizens and non-citizens), families and other juridical persons (corporations). Analytically, three relations can be differentiated in which tax subjects are implicated: in their *individual relations* to the tax states as the subjects of its laws, disciplinary apparatus or regulations; in their *horizontal relations* to one another which are constituted through a highly differentiated taxation that creates a myriad of different “tax collectives”; in their *collective relation* as part of the tax population.

If the normalization of paying (income) taxes was a “breakthrough” (Schmoller), it was so partly because the subject position of the “tax payer” was generalized throughout the citizenry. Yet a closer look reveals it to be less a unified subject position because of the

<sup>21</sup> Ian Hacking (1982); Hacking (1995); Hacking (2007) provides valuable insights into processes in which statistical categories of individuals – tax payers – assume the status of a subject who might even turn against his statistical objectifications.

<sup>22</sup> Ideally, we would like to include tax translator *objects* into our study: “gray literature” available in tax offices, self-help literature on taxes, etc.

<sup>23</sup> Fascinating details on how the Israeli government tried to “educate” citizens into tax payers via mediating entities – among them a museum of taxes and an “income tax movie” (!) – are found in Likhovski (2007: 23-29).

<sup>24</sup> Preparatory works are Jasper et al. (1999) and Pausch und Pausch (1990). Because of their (over-)inclusive notion of tax counseling, they date the birth of tax counselor back to the first tithe-advisors [Zehnthelfer] around 3100 BC.

differentiated responses of tax payers to the tax state's interpellation: the proud "republican" tax payer who happily fulfills her duty to the state is a rather different from the cunning tax evader who prides himself with fooling the state. Thus, we see how important it is to include the reflexive aspect of self-governing into a full account of subjectivation processes (see above). Schematically, we can illustrate how different the self-relations of those interpellated through income taxes are with the following examples:<sup>25</sup>

(a) The *republican tax payer* is a subject that answers the tax state's interpellation with a positive identification. She recognizes paying taxes as her duty towards the state thought of as an agent in pursuit of the common good to which her taxes are a contribution. Before the normalization of paying taxes and where the state lacked the organization to collect its tax (e.g. with the first income tax during the American civil war<sup>26</sup>), this must have been a rather common ethos among the few who actually paid taxes.

(b) Another variation of the tax payer is the *tax optimizer* whose self-relation is marked by the will to optimization in the financial medium of the taxes she has to pay. The tax optimizer's ethos is dominated by an instrumental relation to her own actions the anticipated fiscal effects of which are used for self-governing.<sup>27</sup> From the state's point of view, tax optimization amounts to tax avoidance (Likhovski 2007). The option to avoid paying taxes is either intentionally created by the tax state (via tax deductions), for example if the state aims to promote a certain life style (e.g. marriage or real estate ownership) or wants to support certain societal (e.g. donations to charitable organisations) or economic goals (like investment in real estate). More often, however, tax avoidance is unwanted by the state which will then try to close loopholes through tax law reform.

(c) The *tax evader* is at the intersection of various specific parts of the discourse on taxes: Seen in his relation to the state, he is subject to lawful repressions as well as the object of a great body of reflections on part of the tax state that aims to design its taxes so that evasion is difficult. The tax evader also has specific relations to the various subject positions pertaining to tax translators, i.e. to the tax counselor (see above). Finally, in relation to other tax payers the tax evader is, on the one hand, regarded as a "bad citizen" – on the other hand there is often a secret admiration of his "cleverness". Of course, these relations vary through time, as we can see in respect to the last years: Whereas tax evasion was for a long time and in many countries considered a petty crime, this attitude has significantly changed in many countries, partly because of the on-going financial crisis and the fiscal hardships resulting thereof.

(d) While the tax evader is a tax subject who cannot openly announce his or her ethos vis-à-vis the interpellation as a tax payer and thus can hardly form collectives, the *tax rebel* makes

<sup>25</sup> The list is not meant to be exhaustive.

<sup>26</sup> Brownlee (2004: 35): "The administrative machinery that the commissioner of internal revenue devised to collect the income tax relied heavily on taxpayer cooperation. Compliance was high, prompted by patriotic support for the war effort and by the partial enactment of British 'stoppage at the source' (meaning collection at the source or the withholding of taxes by corporations and others who make payments of income)."

<sup>27</sup> Judge Holmes well-known phrase „taxes are what we pay for civilized society" (first offered in *Compania General de Tabacos de Filipinas v. Collector of Internal 275 U.S. 87 [1927]*) stands at the border between the republican tax payer and the tax optimizer.



a point of not paying taxes in public. He tries to resist not just the taxes he has to pay himself, but often paying (certain) taxes in general. Thus, tax rebels try to put into question the normalization of tax payment and the power of the tax collecting state.

While in regard to the tax population and also in regard to the general tendency to make everyone a tax payer, we witness a tendency of normalization, the variety of individual tax subject's self-relations amounts to a parallel tendency of individualization, particularly in regard to the the tax optimizer and of the tax evader which are in themselves very much differentiated. Individualization can also be regarded a means of power (Likhovski 2007) because if the tax subjects have very different things to lose or to gain in their relation with the tax state it is unlikely that they will unite in rebellion against a tax regime.

#### **4. Conclusion: Differentiated Tax Collectives, Tax Culture, and System Persistence**

We began the paper by arguing that we would lose sight of normalization as a product of the exercise of power if we were to exclude compliance from our analyses of the political system. Taking up Schumpeter's challenge to show that "human beings have become what they are through the fiscal pressure of the state" (Schumpeter 1918: 6, our translation), we proposed to analyze the power of income taxation with Foucault's concept of power, which enables us to focus on the productive side of power and especially its subjectivating effects. In order to make paying income taxes a normality, it was indeed necessary to make and mold citizens' subjectivities before they could become "tax payers" with enough "moral confidence" to "willingly give [their] voluntary share [...] to an impersonal being" (Schmoller 1877: 112, our translation). If paying taxes is a form of overt support, as Easton (1965: 159) correctly noticed, we cannot understand it without looking at the normalization of paying taxes on which it relies.

Because our research project is still at a very early stage, we are unable to provide empirical results to back up this claim which amounts to the thesis that the stability of political systems is linked to the normalization of (income) taxation – at least from a rationalistic perspective as Easton's.<sup>28</sup> We can, however, provide the outline of an argument to that effect.

We start with two rationalistic assumptions: First, even though much attention in political science is devoted to immaterial support (trust, legitimacy etc.), no political system can survive without material support. In modern political systems, the most important source of material support is taxes. While it is also true that the survival of a system can depend on support with manpower, for example in a war time draft, money gathered from taxes is most likely more important, because it is needed for meeting almost every demand that is addressed to it. There is also good evidence that "the existence of an efficient system of income taxation is as important as actual armaments in creating and deciding military

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<sup>28</sup> A first attempt to analyze the parliamentary debate about the introduction of the German Reichseinkommenssteuer (federal income tax) is Nonhoff und Vogelmann (2015).

conflicts” (Likhovski 2010: 762). Therefore, any political system will, in order to persist, want to create a reliable regime of taxation.

Second, from a rationalistic point of view we may also assume that members of a political system want to pay as little taxes as possible. It is likely that they continue paying taxes if they believe that their payment means an overall gain to their living conditions (security, infrastructure, inner-societal peace etc.). But on the one hand the balance between a willingness to pay and the perception to pay too much is precarious, and on the other hand there is of course a temptation to free-ride.

Hence, there will most likely be a tension between a political system’s goal to raise as much taxes as possible and the reluctance of the population to pay them. Historically, we know that particularly to establish income taxes as a reliable source of revenue took a lot of persuasive work and pressure from the state (cf. Likhovski 2010, 2007). Thus, the political system aims at including everyone in its tax regime but cannot simply count on a generally positive identity of the population as tax population, and thus neither on a general willingness to pay. It will therefore employ power to enhance the willingness to pay or at least to reduce the non-willingness to pay and factual tax evasion.

The obvious means to curb tax evasion is the law. To persecute those who evade taxes is, however, a costly endeavor, even more so if evasion amounts to a widespread practice. We may assume that a political system wants to devote as little resources as possible to the upholding of tax compliance. Hence any political system will prefer voluntary tax compliance to enforced tax compliance. It will therefore aim at creating tax subjects who voluntarily pay their taxes. The voluntary willingness to pay taxes is closely connected to national tax cultures shaped through discourses and practices addressing the tax payer (Nerré 2008, Likhovski 2007, Jones 1997). Our schematic analysis above suggests that any political system trying to influence these tax cultures will do so by arranging the subject positions of these discourses and practices in a threefold manner:

(1) The political system will aim at discourses and at practices that produce the subject position of the tax population in unified but non-negative (i.e. not tax rebellious) way. It need not be positive in general but it must be at least neutral in the sense that we all can gain something from the taxes we pay.<sup>29</sup>

(2) The political system will devise a tax system and foster discourses and practices that produce a *differentiated* tax collective. This means that although it is unified in the negative sense (as non-rebellious), the collective will at the same time become individualized. The differentiated collective is helpful in securing tax compliance because different subjects will watch and admonish each other, be it the republican tax payer that defends taxes in general, or the liberal tax optimizer who will see to it that if he needs to pay taxes, everyone else should as well.

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<sup>29</sup> Here, we could look into the options to construct a hegemonic formation of a willing tax population. All members have different preferences and demands but need to be discursively constructed as having something in common. This path cannot be pursued here, but see Pearsons (2006) for the general functioning of hegemonic projects.

(3) Finally, and maybe most importantly, the political system will aim at the self-relation that every prospective tax payer develops to herself. The most efficient way to collect taxes is if each and every citizen polices herself to pay what is due. The self-policing is also fostered through discourses and practices, for example the practice to use a certain kind of book-keeping or to collect receipts.

All in all, we may conclude that from a rationalistic perspective such as Easton's a political system's persistence will depend on the existence of a differentiated tax collective that is being watched by the state (through the law), where everyone watches his fellow tax payers and in particular her- or himself. Such an arrangement will be supported by a tax compliance culture that the state will aim at instilling in its members. This culture is obviously not given pre-politically as it is intimately connected to the existence of a politically instituted tax system.

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